



April 30, 1999

Ms. Linda Wiegman  
Supervising Attorney  
Texas Department of Health  
1100 West 49<sup>th</sup> Street  
Austin, Texas 78756-3199

OR99-1201

Dear Ms. Weigman:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123938.

The Texas Department of Health (the “department”) received a request for information concerning Electra Tri-Med Ambulance Service, an emergency medical services provider licensed by the department. The requested information includes complaints and investigation documents. You assert that the documents which are responsive to the request are confidential in their entirety under section 773.0612(b) of the Health and Safety Code, and therefore must be withheld from public disclosure pursuant to section 552.101 of the Government Code.

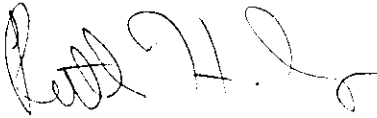
You acknowledge that the department has not sought an open records decision from this office within the statutory ten-day deadline. *See* Gov’t Code § 552.301. The department’s delay in this matter results in the presumption that the requested information is public. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the requested information is public, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. The applicability of section 552.101 provides such a compelling reason.

Section 552.101 of the Government Code provides that information is protected from disclosure under the Public Information Act if it is confidential by law. Section 773.0612(a) of the Health and Safety Code provides that the department “is entitled to access to records and other documents maintained by a person that are directly related to patient care or to emergency medical services personnel to the extent necessary to enforce this chapter and the

rules adopted under this chapter.” Section 773.0612(b) provides that “[a] report, record, or working paper used or developed in an investigation under this section is confidential and may be used only for purposes consistent with the rules adopted by the board.” You state that “[a]ll of the enclosed documents relate to records, reports or working papers used or developed in an investigation under this section [773.0612] and are confidential in their entirety.” Based on your representation, we conclude that all of the submitted records are confidential under section 773.0612(b) and therefore must be withheld from disclosure.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/RWP/eaf

Ref.: ID# 123938

encl. Submitted documents

cc: Mr. Phillip Mark Prasifka  
Electra Police Department  
111 East Cleveland  
Electra, Texas 76360  
(w/o enclosures)

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<sup>1</sup>As the records are confidential under section 773.0612, we need not address the department's other arguments against disclosure.